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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION TWO

Tanisha K.,

Petitioner,

v.

THE SUPERIOR COURT OF DEL
NORTE COUNTY,

Respondent;

DEL NORTE COUNTY DEPARTMENT
OF HEALTH & SOCIAL SERVICES et
al.,

Real Parties in Interest.

A156647

(Del Norte County
Super. Ct. No. JVSQ186107)

Petitioner Tanisha K. (Mother) is the mother of Jayden K. (Minor), born in June of 2018. Mother has filed a petition for an extraordinary writ pursuant to California Rules of Court, rule 8.452, seeking to vacate the order of respondent Superior Court of Del Norte County terminating her reunification services and setting a Welfare and Institutions Code section 366.26 permanency hearing. She contends that substantial evidence does not support the juvenile court's finding that she was offered reasonable reunification services. We disagree, and accordingly we deny the petition on the merits.

BACKGROUND

On July 13, 2018, the Del North Department of Health and Human Services (Department) filed a petition pursuant to Welfare and Institutions Code section 300, subdivisions (b)(1) and (j), including allegations that on or about May 26, 2018, Mother tested positive for methamphetamine and cannabinoids while pregnant with Minor; that Mother tested positive for cannabinoids on May 28, June 2, and June 15, while pregnant; that on June 24, Minor tested positive for cannabinoids at birth; that Mother had a history of cannabis and methamphetamine use which had impacted her ability to safely parent her children; that Mother had two other children removed from her care due to her drug use; and that preplacement preventative services had been offered unsuccessfully.

At a detention hearing on July 16, the court ordered Minor detained pending a jurisdictional hearing set for July 30. Minor was placed with his maternal grandmother.

On July 30, after a contested jurisdictional hearing, the court found eight of the thirteen allegations of the petition true, including the allegations that Mother tested positive for methamphetamine and cannabinoids while pregnant, that Minor tested positive for cannabinoids at birth, and that Mother's two older children were removed from her care due to her drug use. The court also ordered that Minor was to remain detained in out-of-home care.

A dispositional hearing was held on August 20, at which the court ordered Minor removed from Mother's custody and ordered Mother to participate in reunification services as set forth in the Department's case plan. That case plan required Mother to participate in a mental health assessment and follow any recommended treatment plan, to refrain from using any illegal substances and participate in drug testing, and to receive an assessment from the Alcohol and Other Drugs Program (AOD) and follow any recommended treatment plan. The court set an interim review hearing for September 17 to assess Mother's compliance with the case plan and a six-month status review for February 25, 2019.

At the hearing held on September 17, the Department recommended that Minor be returned to Mother's care under a plan of family maintenance. The Department's report

stated that Mother's "supervised visits have gone very well." Mother had been randomly drug tested twice in August and had tested negative for all substances except marijuana. She had also completed her AOD assessment which recommended that she "receive regular and random drug and alcohol screen testing for a period of 12-months. If [she] provides a positive alcohol and drug screen test result besides Marijuana during this period, then she will be reevaluated and treatment recommendations will be provided at that time." The court agreed with the Department's recommendation, ordered Minor returned to Mother's care under a plan of family maintenance, and set another interim review hearing for October 15. At the October 15 hearing, another hearing was set for December 3 because Mother's mental health assessment had not been completed.

In advance of the December 3 hearing the Department submitted an interim review report. The report stated that Mother had set up an appointment for her mental health assessment on November 7, and then failed to show up. She had also missed six random and one social-worker-requested drug test between September 10 and November 26. Mother had attended one drug test requested by her social worker on November 1, where she tested positive for marijuana. At the hearing, the court ordered another AOD assessment and ordered Mother to submit to a drug test the following morning.

On December 6 the Department filed a supplemental petition under Welfare and Institutions Code section 387, alleging that Mother had missed her mental health appointment on November 7, the drug test ordered by the court on December 3, and another random drug test on December 5. A second detention hearing was held on December 12. Mother's parents testified that they both suspected she had been recently using methamphetamine. The court ordered Minor detained from Mother with five hours of supervised visitation a week.

A second jurisdictional hearing was held on January 11, 2019 on the allegations in the supplemental petition. The court found the allegations true and set a disposition hearing for January 25.

Mother was not present at the dispositional hearing on the supplemental petition, held on January 25. The court again ordered Minor removed, and ordered that Mother

continue to receive reunification services as stated in the case plan attached to the January 11 report. That updated case plan again required Mother to be randomly tested for drugs and alcohol, to receive an AOD assessment and follow any recommended treatment plan, and to receive a mental health assessment and follow any recommended treatment. The court set a six-month status review hearing for March 1.

On February 21, the Department filed an interim status report. The report found that Mother “has not made progress on her court ordered case plan.” In addition, Mother had been a “no show” for sixteen drug tests between September 10 and February 19, and had attended only one such test on February 6, where she tested positive for amphetamine, methamphetamine, and THC. Mother had “not participated in, nor contacted Alcohol and other drugs, nor a comparable substance abuse program during the review period.” The report recommended that Minor remain in his out-of-home placement, that reunification services be terminated, and that the matter be set for a Welfare and Institutions Code section 366.26 hearing.

Three witnesses testified at the hearing on March 1: Mother, Minor’s maternal grandmother, and social worker Jessica McGlasson. Mother testified that she was “doing good” with her sobriety, and that she had contacted AOD and was told that she “didn’t need the services.” She admitted that she had drug tested only “once in the last few months,” and that that test was positive. Minor’s maternal grandmother testified that Mother had not been to AOD. And McGlasson testified that Mother had not contacted AOD and was not participating in any substance abuse programs.

After hearing the testimony, the court found as follows:

“THE COURT: All right. The court has read the status review report.

“The court takes into consideration, also, the additional record here in the court file. The child was removed for original detention back in July 2018.

“In this particular situation, it is proof beyond a reasonable doubt, the highest standard, that she’s not in compliance with her case plan. That’s not even necessary here. She’s not—or she’s been selective what portions of the plan she wants to apply to.

“I did not find her testimony credible. I found her not credible. Her speech was pressured and manic. Her demeanor odd. I have seen like conduct by her in the past when she was under stimulants. And appeared to me the same like conduct.

“She has not tested since September 2018, shortly after the detention on the 387 petition. And that test was positive for her of amphetamine and THC, marijuana.

“It’s clear to me that the young lady is a drug addict and has a problem. And that’s the initial reason why she was brought before the court. She did not address that and has chosen to ignore it.

“She stated on the stand she had good sobriety. I find that not credible. I find what AOD told her not credible, as the case plan clearly states, and I ordered her, to participate in drug testing.

“I found Ms. McGlasson’s testimony to be credible.

“That aside, it looks like the court’s hands are tied. The child was removed well over six months ago—back in July 2018. I think [Minor’s attorney] is correct that my hands are tied. I’m out of time, regardless.

“And even if I wasn’t, I would find her—I probably would not grant her any more time in that regard. Reason being, she’s had plenty of time to deal with this. I don’t find it reasonably likely that she would reunify in the next six months.”

The court terminated reunification services as to Mother and set the matter for a section 366.26 hearing on June 28.

On April 15, Mother filed a petition for an extraordinary writ seeking to vacate the court’s order terminating her reunification services and setting a section 366.26 hearing. On April 19 we issued an order to show cause and stayed the June 28 hearing. And on May 6 the Department filed its opposition.

DISCUSSION

At the threshold, Mother’s memorandum accompanying her petition, which is exactly two pages long, is inadequate. It does not provide a summary of the proceedings or the significant facts. (See Cal. Rules of Court, rule 8.452, subd. (b)(1).) It makes no mention of the standard of review. Although it makes a few factual assertions with

citation to the record, for example, asserting that Mother “visited with her child in healthy ways,” it fails to “explain the significance” of the portions of the record cited. (Cal. Rules of Court, rule 8.452, subd. (b)(3).) Nor does the memorandum “state each point under a separate heading or subheading summarizing the point and support each point by argument and citation of authority,” as required. (Cal. Rules of Court, rule 8.452, subd. (b)(2).) There are no heading or subheadings, the handful of authorities cited are simply boilerplate regarding the purpose and importance of reunification services, and Mother does not explain how they apply to the facts of her case or support the granting of her petition.

Nevertheless, as best we can tell, Mother’s argument is that she did not receive reasonable reunification services, a finding we review for substantial evidence, bearing in mind that clear and convincing evidence was required in the juvenile court. (See *T.J. v. Superior Court* (2018) 21 Cal.App.5th 1229, 1238–1240.) And we easily conclude that substantial evidence supports the juvenile court’s finding.

As noted, it was Mother’s substance abuse issues that prompted these dependency proceedings. With respect to those issues, Mother’s case plan required her to contact AOD for an evaluation and to participate in any treatment plan recommended. Mother does not explain why this part of her case plan was not reasonable or otherwise inadequate. (See *Robert L. v. Superior Court* (1996) 45 Cal.App.4th 619, 626 [affirming finding that reunification services including random drug testing and substance abuse counseling were adequate and reasonable].) And substantial evidence supports the conclusion that Mother did not avail herself of the reunification services that were offered: Minor’s maternal grandmother and McGlasson both testified that Mother never contacted AOD for an evaluation.¹ Finally, it was undisputed that Mother did not participate in any substance abuse treatment programs, through AOD or otherwise, and

¹ As noted, Mother testified that she contacted AOD and was told that she did not need services. It is unclear whether Mother was referring to the assessment that took place prior to the September 17 hearing. In any event, the juvenile court expressly found this aspect of Mother’s testimony not credible.

missed some 16 drug tests between September 10 and February 19. In short, substantial evidence supports the conclusion that Mother was offered reasonable reunification services and failed to take advantage of them.

DISPOSITION

Mother's petition for an extraordinary writ is denied on the merits. The stay of the June 28 section 366.26 hearing is hereby dissolved, and our decision is final as to this court immediately. (Cal. Rules of Court, rule 8.490(b)(2)(A).)

Richman, J.

We concur:

Kline, P. J.

Miller, J.

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